

NICHOLAS A. TRUTANICH  
United States Attorney  
District of Nevada

S. WYETH McADAM, CA SBN 223876  
Special Assistant United States Attorney  
160 Spear Street, Suite 800  
San Francisco, California 94105  
Telephone: (415) 268-5610  
Facsimile: (415) 744-0134  
E-Mail: Wyeth.McAdam@ssa.gov

Attorneys for Defendant

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

NIGEL RAY LACHEY,  
Plaintiff,

vs.

ANDREW SAUL,  
Commissioner of Social Security,  
Defendant.

Case No.: 2:20-cv-01438-BNW

**MOTION FOR EXTENSION OF TIME TO FILE  
CERTIFIED ADMINISTRATIVE RECORD AND  
ANSWER; DECLARATIONS OF JEBBY  
RASPUTNIS AND CHRISTIANNE VOEGELE;  
[PROPOSED] ORDER**

***(FIRST REQUEST)***

1 Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through  
2 his undersigned attorneys, hereby moves for a sixty-day extension of time to file the Certified  
3 Administrative Record (CAR) and answer to Plaintiff’s Complaint. The CAR and answer to Plaintiff’s  
4 Complaint are due to be filed by November 16, 2020. The new deadline would be January 15, 2021.

5  
6 In light of the global COVID-19 pandemic, the Social Security Administration (“SSA” or the  
7 “Agency”) has taken the unprecedented step of suspending in-office services to the public:  
8 <https://www.ssa.gov/coronavirus/>. The Agency is focusing on providing the most critical services by  
9 mail, phone and online to those most in need. SSA is also taking additional steps to protect its employees  
10 and help stop the spread of COVID-19, maximizing social distancing, including significantly limiting  
11 employee access to SSA facilities for health and safety only and has moved toward a temporary virtual  
12 work environment. Electronic processes allow some of SSA’s most critical work to continue with  
13 minimal interruption; other workloads have been suspended until the health crisis abates or the Agency is  
14 able to create new electronic business processes.  
15

16 For purposes of this particular case, the public health emergency pandemic has significantly  
17 impacted operations in the Social Security Administration’s Office of Appellate Operations (OAO) in  
18 Falls Church, Virginia. That office is responsible for physically producing the administrative record that  
19 is required to adjudicate the case under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C.  
20 § 405(g) and (h). *See* SSA Program Operations Manual System GN 03106.025, *available at*  
21 <https://secure.ssa.gov/apps10/poms.nsf/lnx/0203106025>.  
22

23 As detailed in the attached declarations, beginning March 16, 2020, OAO’s staff members began  
24 to telework to protect employee health and prevent further spread of COVID-19. At that time, critical in-  
25 person physical tasks associated with preparing the administrative record could not be accomplished. For  
26 example, prior to the COVID-19 pandemic, to safeguard Personally Identifiable Information (PII), all

1 hearing recordings, which are part of the administrative record, were downloaded onto compact discs and  
2 encrypted. OAO securely routed the encrypted discs to a private contractor through a daily pickup and  
3 delivery service at the Official Duty Station (ODS) in Falls Church, Virginia. The private contractor  
4 would transcribe the hearing recording and send the paper copy of the hearing transcript back to OAO.  
5 OAO personnel would then scan the hearing transcript into the electronic record or place the hearing  
6 transcript in the paper case file. Thereafter, OAO personnel would assemble the administrative record in  
7 a prescribed order.  
8

9 To ensure a continuity of operations, OAO has been actively pursuing mitigation efforts to allow  
10 the remote preparation of administrative records. For cases in which the private contractors were already  
11 in possession of hearing recordings for transcription, with the assistance of the Office of Acquisitions and  
12 Grants (OAG), OAO received approval to receive these transcripts from the private contractors via  
13 secured email, e.g., using password protection and redacted Social Security Numbers. In April 2020,  
14 OAO began receiving such hearing transcripts from private contractors via secured email.  
15

16 For cases in which OAO had not yet submitted recordings to the private contractors before March  
17 16, 2020, OAO has been pursuing all available options to obtain transcriptions for these cases. In May  
18 2020, OAO began encrypting hearing recordings and securely emailing them to the contractors for  
19 transcription. Through the month of May, OAO and the contractors worked to resolve technical issues  
20 that arose, particularly with large files. The process is functioning now, albeit at only half of normal  
21 productivity.  
22

23 Given the volume of pending cases, Defendant requests an extension in which to respond to the  
24 Complaint until January 15, 2021. If in sixty days the CAR is not prepared, the Commissioner will file a  
25 status report with the Court as to when he expects the CAR to be completed.  
26

1 On November 2, 2020, the undersigned left a phone message with Plaintiff who has appeared pro  
2 se (without attorney representation), but he has not yet responded to the requested extension.

3 It is therefore respectfully requested that Defendant be granted an extension of time to file the CAR  
4 and answer to Plaintiff's Complaint, through and including January 15, 2021.

5  
6 Dated: November 2, 2020

Respectfully submitted,

7 NICHOLAS A. TRUTANICH  
8 United States Attorney

9 /s/ S. Wyeth McAdam  
S. WYETH McADAM  
Special Assistant United States Attorney

10 **IT IS SO ORDERED**

11 **DATED:** 3:34 pm, November 04, 2020

12  
13 

14 **BRENDA WEKSLER**  
15 **UNITED STATES MAGISTRATE JUDGE**  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 160 Spear Street, Suite 800, San Francisco, California 94105. I am not a party to the above-entitled action. On the date set forth below, I caused a copy of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE CERTIFIED ADMINISTRATIVE RECORD AND ANSWER; DECLARATIONS OF JEBBY RASPUTNIS AND CHRISTIANNE VOEGELE; [PROPOSED] ORDER** to be mailed to Plaintiff via United States Postal Service at the address set forth below:]

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 2, 2020

/s/ S. Wyeth McAdam  
S. WYETH McADAM  
Special Assistant United States Attorney